

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

DAVID MARISCAL,

Petitioner,

V.

NEVADA DEPARTMENT OF
CORRECTIONS, et al.,

Respondents.

Case No. 2:18-cv-00347-GMN-VCF

ORDER

The court ordered (ECF No. 5) petitioner to show cause why this action should not be dismissed as a second or successive petition. Petitioner has filed a response (ECF No. 7). Petitioner presents arguments why the court should consider the petition. However, under 28 U.S.C. § 2244(b)(3), he needs to present these arguments to the court of appeals, not to this court.

Reasonable jurists would not find the court's conclusion to be debatable or wrong, and the court will not issue a certificate of appealability.

IT THEREFORE IS ORDERED that this action is **DISMISSED** as a second or successive habeas corpus action. The clerk of the court shall enter judgment accordingly and close this action.

IT FURTHER IS ORDERED that a certificate of appealability will not issue.

1 IT FURTHER IS ORDERED that that the clerk shall add Adam Paul Laxalt, Attorney
2 General for the State of Nevada, as counsel for respondents.

3 IT FURTHER IS ORDERED that the clerk shall electronically serve upon respondents a
4 copy of this order. No response is necessary.

5 DATED: July 13, 2018

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GLORIA M. NAVARRO
Chief United States District Judge